

**ENTERED**

April 26, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

DANIEL BENAVIDEZ, §  
§  
Plaintiff, §  
§  
VS. § CIVIL ACTION NO. 2:21-CV-00194  
§  
§  
NUECES COUNTY, TEXAS, *et al.*, §  
§  
Defendants. §

**PARTIAL JUDGMENT AGAINST DEFENDANT BOBBY JOE BENAVIDES**

On August 31, 2021, Plaintiff Daniel Benavidez filed his complaint against Defendant Bobby Joe Benavides. Plaintiff alleges that he sustained personal injuries from an incident that occurred on or about September 2, 2019, involving Defendant Benavides's use of excessive force in violation of the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution and constituting assault under Texas state law. D.E. 1. Although duly served with summons, Defendant Benavides has failed to appear and defend this lawsuit. The Clerk of Court has entered default against him pursuant to Federal Rule of Civil Procedure 55. D.E. 23.

Consequently, Defendant has admitted the allegations of liability in the complaint. Fed. R. Civ. P. 8(b)(6). On Plaintiff's motion for default judgment (D.E. 20), the Court enters partial judgment against Defendant Benavides as follows:

- During the September 2, 2019 incident, Defendant Benavides was acting in his individual capacity under color of law;

- Defendant Benavides did then and there subject Plaintiff to the deprivation of the laws, privileges, or immunities secured by the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States by the use of force that was clearly excessive to the need, and the excessiveness of which was objectively unreasonable;
- Defendant Benavides did then and there assault Plaintiff by acts and omissions that intentionally, knowingly, and recklessly caused severe personal injury to Plaintiff through unconsented physical contact with him;
- Said conduct of Benavides proximately caused physical and emotional injuries to Plaintiff that were the direct and immediate consequence of Defendant Benavides's wrongful acts and a natural and direct result of the assault; and
- Plaintiff is entitled to just damages upon proof thereof at trial.

The Court carries with the case Plaintiff's unliquidated claim for damages, pending proof thereof at trial.

ORDERED on April 26, 2022.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE